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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,665	09/30/2003	Philippe Diehl	003921.00139	2038

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BANNER & WITCOFF, LTD.
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WASHINGTON, DC 20005-4051

EXAMINER

CHRISS, ANDREW W

ART UNIT	PAPER NUMBER
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2419

MAIL DATE	DELIVERY MODE
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11/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/673,665</p>	<p>Applicant(s) DIEHL ET AL.</p>	
	<p>Examiner Andrew Chriss</p>	<p>Art Unit 2419</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 October 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 31 October 2008. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-4, 9-14 and 20-24.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Hassan Kizou/
Supervisory Patent Examiner, Art Unit 2419

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed October 31, 2008 have been fully considered but they are not persuasive. Applicant states that the combination of Reblewski and Kappler fails to disclose the claim limitation "wherein the signal inclusion schedule specifies the order and frequency of occurrence of each of the plurality of signals in the message." Examiner respectfully disagrees. Kappler discloses a calendar queue mechanism for scheduling transport of units or cells, specifically high frequency/high priority flows and low frequency/low priority flows (column 12, line 65 - column 13, line 10). Data flow prioritization is performed on the basis of a specified frequency, or expected/negotiated emission intervals (column 12, lines 56-64). Therefore, it is clear to one of ordinary skill in the art that the calendar queue mechanism disclosed in Kappler comprises information regarding the frequency of occurrence (i.e., expected/negotiated emission intervals) and order (i.e., priority) of the plurality of signals in the message.

Applicant further states that "(o)ne of ordinary skill in the art would appreciate the technical distinctions between the disclosure in Kappler and the above-noted features recited in claim 1," "Kappler...recognizes the deficiencies of routing flows to different class of service output FIFO queues based on priorities," and "Kappler...discloses that precision is lost/foregone using such a scheme in order to reduce an amount of memory that is required." However, Applicant's arguments are not commensurate with the scope of the claim 1, which requires "A reconfigurable emulation integrated circuit, comprising: a storage unit comprising a signal inclusion schedule; and circuitry, coupled to the storage unit, operative to generate and transmit a message outside the emulation integrated circuit, the message comprising a plurality of signals and assembled in accordance with the signal inclusion schedule, wherein the signal inclusion schedule specifies the order and frequency of occurrence of each of the plurality of signals in the message."

Therefore, rejection of Claims 1-3, 9-13, and 20-24 under 35 U.S.C. 103(a) is maintained..